

# PROFESSIONAL SERVICE CONTRACT TRANSMITTAL RECORD

CHANGE ORDER

STANDARD PO NUMBER

CONTRACT PO NUMBER

2899857

2899857

REVISION

REVISION

## Insurance Requirement

ACCOUNTS PAYABLE WILL HOLD UP ALL CONTRACT PAYMENTS UNTIL ALL INSURANCE CERTIFICATES/POLICIES REQUIRED UNDER THE CONTRACT HAVE BEEN RECEIVED. CONTRACTORS SHOULD BE MADE AWARE OF THIS REQUIREMENT.

TYPE OF CONTRACT: (Check One)

☐ CONSTRUCTION/DEMOLITION ☐ LEASE ☐ DEED

☒ PROFESSIONAL SERVICES

DEPARTMENT HEAD'S SIGNATURE


DEPARTMENT  
PLANNING AND  
DEVELOPMENT

FUNDING SOURCE (Percent)

FEDERAL STATE % CITY 100% OTHER %

DEPARTMENT CONTACT PERSON

PAUL ALEOBUA, RA

PHONE NO.

224-2170

CONTRACTOR'S NAME

ECONOMIC DEVELOPMENT CORPORATION

DATE

PREPARED

10/20/2014

CONTRACTOR'S ADDRESS:

500 GRISWOLD, SUITE 2200  
DETROIT, MICHIGAN 48226

ENGINEER'S ESTIMATE ☐CONTRACT ☒CHANGE ☐

TOTAL CONTRACT AMOUNT

\$255,000

TOTAL CPO AMOUNT

\$

CHANGE AMOUNT

\$

PHONE NO. 313.237.4621

☒

CORPORATION

☐

PARTNERSHIP

☐

INDIVIDUAL

FEDERAL EMPLOYER/SOCIAL SECURITY NUMBER: 38-2192028 MINORITY FIRM ☒ YES ☐ NO

PURPOSE OF CONTRACT: PROFESSIONAL SERVICES - ECONOMIC DEVELOPMENT SERVICES

CHARGE ACCOUNT:

1000-360134-0-651200-00595-0-0 → \$200,000.00  
1000-360135-0-651200-00597-0-0 → \$55,000.00

TIME &amp; DATE IN

APPROVER MUST ALSO MAKE APPROPRIATE NOTES IN ORACLE PURCHASE ORDER

TIME &amp; DATE IN

### REQUESTING DEPARTMENT

City of Detroit  
Planning & Development Dept.  
65 Cadillac Square, Ste. 1200  
Detroit, Michigan 48226

AUTHORIZED DEPARTMENT REPRESENTATIVE

### BUDGET

☒ RECOMMEND APPROVAL  
☐ RECOMMEND DENIAL

BUDGET DIRECTOR OR DEPUTY

JAN 07 2015

JAN 08 2015

### GRANT MANAGEMENT SECTION

☐ RECOMMEND APPROVAL  
☐ RECOMMEND DENIAL

GRANT ACCOUNTANT

### FINANCE DEPARTMENT

☒ RECOMMEND APPROVAL  
☐ RECOMMEND DENIAL

FINANCE DIRECTOR OR DEPUTY

JAN 09 2015

1/9/15

### LAW DEPARTMENT

☒ RECOMMEND APPROVAL  
☐ RECOMMEND DENIAL

CORPORATION COUNSEL

1/9/15

### PURCHASING DIVISION

PURCHASING DIRECTOR

CITY COUNCIL APPROVAL JCC REFERENCE: PAGE DATE

FRC approval FEB 23 2015

cc FEB 03 2015

#4482

**EXHIBIT A**

**CITY OF DETROIT**

**AGREEMENT**

THIS AGREEMENT, entered as of the 1st day of July, 2014 (the "Effective Date"), by and between the City of Detroit, Michigan, a municipal corporation (herein referred to as the "City") acting by and through the Planning and Development Department (herein referred to as the "City") and the Economic Development Corporation of the City of Detroit, a Michigan public authority and body corporate (herein referred to as "EDC").

**W I T N E S S E T H:**

WHEREAS, the EDC is a public body corporate and an instrumentality of the City of Detroit, Michigan, created pursuant to the Public Act No. 338 (hereinafter "Act 338") Public Laws of Michigan, 1974, as amended, and;

WHEREAS, the EDC was incorporated pursuant to Act 338 for the purpose of implementing programs to alleviate and prevent conditions of unemployment in the City by providing means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in the State of Michigan and in the City and by encouraging the location and expansion of commercial enterprises to more conveniently provide needed services and facilities of the commercial enterprises to the City and the residents thereof, and;

WHEREAS, the City has determined it to be in the best interests of its economic development programs for it to engage the EDC to provide professional services to the City and its agencies and instrumentalities, all for the purpose of carrying out its charter mandate and reaching its development goals, and;

WHEREAS, the EDC has developed a substantial staff capability in the area of economic development and is fully qualified and capable of performing the work and services required hereunder upon the terms and conditions hereinafter set forth, and;

WHEREAS, the City and the EDC entered into a previous contract, (hereinafter "Previous Contract") for services to be provided to the City by the EDC, and;

WHEREAS, the need for the EDC to perform certain services and fulfill certain duties and obligations may continue beyond the term of the Previous Contract, and;

WHEREAS, the City and the EDC now desire to enter into a new contract (herein referred to as "Agreement" or "Contract") for services to be performed by EDC for the benefit of the City as stated in the Scope of Services.

WHEREAS, this contract is funded through the City of Detroit's General Fund and does not require compliance with the Community Development Block Grant (CDBG) regulations, but this contract may be amended to include the addition of Community Development Block Grant funds, which necessitates the inclusion of CDBG requirements in this contract.

NOW THEREFORE, in consideration of the premises, the mutual undertakings and benefits to accrue to the parties and to the public, the parties hereto agree as follows:

## **1. ENGAGEMENT OF CONTRACTOR**

1.01 The City hereby engages the EDC, and the EDC hereby agrees to perform, to the extent of its funding capability as hereinafter provided, the Services hereinafter set forth in Article 2 herein, and as described in Exhibit A, attached hereto and made a part hereof, in accordance with the terms and conditions contained in this Agreement including Exhibits A, B, C, D, E, F, G and H.

## **2. SCOPE OF SERVICES**

2.01 The EDC shall perform in a satisfactory and proper manner, as determined within the sole and reasonable discretion of the City, the Services as described in Exhibit A, attached hereto and made a part hereof. In the event that there shall be any dispute between the parties with regard to the extent and character of the Services to be performed, or the quality of performance required under this Agreement, the interpretation and determination of the City shall govern.

2.02 The Services shall include all conferences and consultations deemed necessary by the City for the EDC to properly and fully perform the Services.

2.03 The Services shall be performed at such locations as are appropriate to the proper performance of the Services.

2.04 The EDC shall use its best efforts and devote such skill, knowledge and ability as is necessary to most effectively and efficiently carry out and perform the Services during the term of this Agreement.

## **3. TERM OF AGREEMENT**

3.01 The term of this Agreement shall be from July 1, 2014 through June 30, 2015. This Article 3 is subject to the provisions of Article 9, Termination.

3.02 The EDC shall have no authority to start work, no payments shall be authorized by the Finance Department of the City of Detroit, and the City shall not be liable for reimbursement for any materials or services purchased, or payment for any costs incurred by the EDC, or any Services rendered by the EDC, which are purchased, incurred, or rendered prior to the term of this Agreement as specified in the Notice described in Section 3.01 herein.

#### **4. PERSONNEL AND ADMINISTRATION**

4.01 To ensure proper performance of the Services and a quality Work Product (as hereinafter defined), the EDC warrants that all EDC personnel assigned to the performance of the Services (herein called the "Employees") or other consultants engaged by the EDC to perform the Services or any additional services (as may be agreed to by the parties hereto) are fully qualified and authorized to perform the Services under Federal, State, and local laws, rules, and regulations.

4.02 The City shall have the right of prior approval of all contractors and subcontractors assigned to this project. Each Employee, contractor, subcontractor or consultant, if any employed by the EDC in the performance of this Agreement shall devote such time, attention, skill, knowledge and ability as is necessary to most effectively and efficiently perform the Services to conform with the highest practices in the industry.

The City may, within its sole discretion, and upon such terms and conditions as it deems appropriate, assign qualified City employees to work with the EDC in completing the Services when good and sufficient cause exists to do so and when it is not inconsistent with the terms of this Agreement. It is expressly understood and agreed by the parties hereto that the EDC shall be primarily and ultimately responsible to the City for the proper and expedient completion of the Services and assumes all liability and holds the City harmless for such performance by City personnel, when such performance is pursuant to the request of the EDC. Notwithstanding the above, the EDC shall reimburse the City for the cost and expense of that personnel, including but not limited to, the wages paid, proper allowance for vacation, sick time and the City's contribution to the pension system, and the City's cost or expense for compensation insurance or benefits when such assistance is given at the EDC's request. All costs to the EDC of the expenses described herein for City employees assigned to work with the EDC shall not be eligible for reimbursement by the City to the EDC. City personnel shall not be deemed to be performing services or giving assistance at the request of the EDC unless such request is in writing and signed by the EDC and unless such services are not of a character normally performed by City personnel when the City is not a contracting party (e.g., services of building inspectors, even if requested in writing signed by the EDC, would not be deemed to be at the request of the EDC for purposes of this Section 4.02).

4.03 The relationship of the EDC to the City is and shall continue to be that of an independent contractor and neither party to this Agreement shall claim any liability benefits, such as workers' compensation, pension rights or liabilities arising out of or related to a contract for hire or employer/employee relationship, and no such liabilities or benefits shall arise or accrue to either party or either party's agent or employee with respect to the City as a result of the performance of this Agreement, unless expressly stated in this Agreement. No relationship other than that of independent contractor shall be implied between the parties or either party's agent or employee and the EDC hereby agrees to hold the City harmless from any such claim and any costs or expenses related thereto.

4.04 The EDC hereby waives any claim against the City and agrees not to hold the City liable for any personal injury or property damage incurred by an Employee(s), contractor(s), subcontractor(s), agent(s) or consultant(s) while working on this Project which is not held in a court of competent jurisdiction to be directly attributable to the gross negligence or malicious and intentional conduct of an employee of the City acting within the scope of his or her employment and hereby agrees to hold the City harmless from any such claim by its Employees, contractors, subcontractors, agents or

consultants, (such Employees, contractors, subcontractors, agents and/or consultants collectively herein called the "Associates").

4.05 In all cases in which an Employee, contractor or subcontractor must be replaced, for any reason, the EDC shall supply an acceptable replacement to the City as soon as possible. Except where the Employee, contractor or subcontractor was withdrawn pursuant to a written request by the City, the EDC shall furnish such replacement on a no-charge basis for the period of time necessary for any retraining or job orientation.

4.06 All work to perform the Services hereunder shall be coordinated by the Detroit Economic Growth Corporation ("DEGC"), which is hereby duly designated by the EDC as its agent to perform its duties hereunder, and acceptable to the City, who shall in addition to its other duties, act as liaison between the EDC and the City.

The DEGC shall arrange the Project time schedule and monitor performance, except that all requirements as to the Project time schedule as set forth in this Agreement shall be adhered to by the EDC. The DEGC shall meet regularly with representatives of the City to discuss progress made at the Project Area and any problems which may have arisen.

4.07 The EDC shall inform the City as soon as the following conditions become known:

- a. Problems, delays, or adverse conditions which materially affect the ability to complete the Project or prevent the meeting of time schedules. This disclosure shall be accompanied by a statement of the action taken, or contemplated, by the EDC and any City assistance needed to resolve the situation; or
- b. Favorable development of events which enable meeting time schedules sooner than anticipated.
- c. The EDC shall inform the City of the reasons for the occurrence of events specified in subsections "a" and "b" of this Section 4.07 as well as additional pertinent information.

4.08 For the term of this Agreement, and for one (1) year after its termination, the EDC shall not employ any employee of the City, or any agent, or contractor of the City without obtaining the City's prior written consent.

4.09 The EDC shall not receive any payment from the City for any costs under this Agreement, including but not limited to, overtime pay, holiday pay, sick pay, vacation pay, retirement benefits, pension benefits, or insurance benefits, or any other costs of the EDC's employees, contractors, subcontractors, agents, or consultants, in addition to or in lieu of those set forth in, and pursuant to, the areas of cost and the maximum amounts thereof, as specified in the line items of Exhibit B, Budget, attached hereto and made a part hereof.

## **5. COMPENSATION**

5.01 The City agrees to pay the EDC an amount equal to TWO HUNDREDFIFTY-FIVE THOUSAND DOLLARS (\$255,000.00) for the complete and proper performance of the Services as set forth in Article 2 herein, and as described in Exhibit A, attached hereto and made a part hereof. Such compensation shall be paid pursuant to the Budget attached hereto as Exhibit B, and is inclusive of any and all remuneration to which the EDC may be entitled.

## **6. METHOD OF PAYMENT and USES OF FUNDS**

6.01 The EDC, in order to receive monthly payment, shall submit a requisition for payment on the tenth day of following calendar quarter during the term hereof, commencing on October 10, 2013, in the amount of \$21,250.00 plus all out-of-pocket expenses incurred on behalf of the City, together with copies of invoices for such out-of-pocket expenses. Quarterly, in accordance with Exhibit E hereof, the EDC shall submit a report of services rendered during the preceding quarter. The City shall approve payment, in whole or in part, upon satisfactory review and approval of the requisition. In the event that the City shall reasonably require further explanation or documentation the EDC shall provide such further explanation or documentation upon request.

6.02 Each requisition for payment must be signed by the authorized representative of the EDC.

6.03 Requisitions for payment shall be directed to the attention of the individual or department specified in Article 16 herein, Notices.

6.04 EDC shall bear final responsibility for all out-of-pocket expenses submitted for payment, including financial responsibility for ineligible expenditures discovered by audit findings, except that the EDC shall not bear such financial responsibility for out-of-pocket expenses submitted for payment, including financial responsibility for ineligible expenditures discovered by audit findings for those matters dealt with by the City for any component of any request submitted to the City by EDC concerning which the EDC had received prior written approval, or prior written authorization, from the City.

6.05 "Program income" shall mean gross income received by the EDC directly generated from the use of CDBG funds. The parties hereto acknowledge that "program income" is fully defined at 24 CFR 570.500 in the Federal Regulations.

All use of program income by the EDC shall be subject to (1) all terms and conditions of this Agreement applicable to the funding of this Agreement and (2) all laws and regulations applicable to the use of CDBG funds, including but not limited to 24 CFR 570.500(a) and 24 CFR 570.504. All interest earned on advances (except for interest earned on a lump sum account, if any) in excess of two hundred fifty dollars earnings per year shall be returned to the City for submission to the Federal grantor agency. Interest earnings up to two hundred fifty dollars per year may be retained by the EDC solely for the purpose of set off against service charges charged by the bank in which the EDC deposits the advance(s). The EDC shall report to the City on all interest earnings. The EDC shall not submit request(s) for reimbursement or make any other request for payment while program income is on hand, except for program income which is in a revolving fund account. Program income which is on hand but which has been obligated shall not be deemed to be on hand for the purposes of this restriction on request(s) for reimbursement. Program income which is in a

revolving fund, including interest earned on the funds in a revolving fund, must be spent before the EDC makes any request(s) for reimbursement or any other request(s) for payment for activities to be assisted by the revolving fund.

All program income shall be reported to the City with each requisition.

Any use of program income by the EDC shall be approved in writing by the City prior to that specific use. Any Agreement costs paid for with program income, as approved by the City, are not reimbursable by the City.

It is understood by the parties hereto that Federal Regulations require that this Agreement remain in force for so long as the EDC has control over CDBG funds, including program income. Therefore, notwithstanding the other requirements set forth herein regarding (1) termination of this Agreement and (2) the expiration date of this Agreement, the EDC shall comply with all requirements of this Agreement which govern:

- (1) program income, if any, as defined in the Federal Regulations at 24 CFR 570.500;
- (2) all other CDBG funds, if any; and/or
- (3) miscellaneous revenue, if any, as defined in the Federal Regulations at 24 CFR 570.461;

for a period which shall extend beyond the expiration date and/or termination date of this Agreement for so long as the EDC shall continue to receive, use, and/or retain such program income, other CDBG funds and/or miscellaneous revenue. The EDC shall continue to report to the City on the receipt of all such program income, other CDBG funds and/or miscellaneous revenue for as long as the EDC shall continue to receive, use and/or retain such program income, other CDBG funds and/or miscellaneous revenue.

The EDC shall return all program income to the City upon its receipt by the EDC.

Upon expiration or termination of this Agreement, the EDC shall (1) transfer to the City all CDBG funds on hand at the time of expiration or termination, including all program income; and (2) assign to the City all accounts receivable attributable to the use of CDBG funds and/or other Agreement funds (i.e., any program income accounts receivable and/or other accounts receivable which were generated by use of Agreement funds) together with a report on all such accounts receivable; unless at such time of expiration or termination of this Agreement, the EDC and the City enter into another agreement which shall govern the use, and reporting upon, of all such funds on hand and/or program income, if any, and all such other accounts receivable, if any; unless otherwise provided for elsewhere in this Agreement.

6.06 The EDC shall within 90 days of the execution date of this Agreement, prepare and submit to the City for review and approval an Indirect Cost Proposal including all necessary support documentation consistent with the provisions for such a proposal required by Federal Office of Management and Budget Circular A-122 and Federal Publication No. OASMB-5. In the absence of such an Indirect Cost Proposal, the EDC shall not request for reimbursement any Indirect Costs as defined in A-122, notwithstanding any Indirect Costs specified in the Budget, Exhibit B, attached hereto. The maximum amount of Indirect Costs which shall be reimbursable under this Agreement

shall not exceed the lesser of (1) the amount provided for by the City-approved Indirect Cost Proposal or (2) the amount of any Indirect Cost line item in the Budget, Exhibit B, attached hereto, and in no case shall the City reimburse any Indirect Costs until the EDC has submitted the Indirect Cost Proposal and the City has reviewed and approved same. In the event that the EDC shall have no funding during the term of this Agreement, other than the funding provided by this Agreement, then the EDC may submit a sworn statement stating such, together with sufficient supporting documentation as determined by the City.

**6.07 Payment for services provided under this contract is governed by the terms of Ordinance No. 42-98; 1984 Detroit City Code, Sections 18-5-71 through 18-5-79 entitled "Prompt Payment of Vendors."**

**The individual responsible for accepting performance under this Contract and from whom payment should be requested is Trisha Stein, Interim Director of Planning and Development Dept., who may be reached 2300 Cadillac Tower, Detroit, MI 48226.**

## **7. INDEMNITY AND DAMAGES**

**7.01** In consideration of the EDC's performance under this Agreement, the City agrees to indemnify and hold harmless, to the extent permitted by law, the EDC's officers, directors, employees, and those employees of the Detroit Economic Growth Corporation assigned to the performance of the services required under this Agreement, for any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which arise out of their official and authorized actions as such officers, directors, employees, and employees of the Detroit Economic Growth Corporation assigned to the performance of the services required under this Agreement, during the term of this Agreement, except:

- (a) Any negligent act or omission of the EDC, its representatives, employees, agents, or employees of the Detroit Economic Growth Corporation who are assigned to the performance of the services required under this Agreement; or
- (b) Any intentional material breach by the EDC, its representatives, employees, agents, employees of the Detroit Economic Growth Corporation who are assigned to the performance of the services required under this Agreement, consultants (to the extent that the EDC controls said consultants), contractors, (to the extent that the EDC controls said contractors), subcontractors (to the extent that the EDC controls said subcontractors), to perform its or their obligations either expressed or implied under this Contract.

The EDC agrees to save harmless the City, to the extent permitted by law, against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges, losses and expenses (including without limitation, fees, and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the City by reason of any of the following occurring during the term of this Contract:

- (i) Any negligent or tortious act, error or omission of the EDC or any of its associates for whose acts any of them might be liable, regardless of whether or not it is caused in whole or in part by a person indemnified hereunder; and



- (ii) Any failure by the EDC, or any of its associates to perform its obligations either implied or expressed under this Contract.

7.02 The EDC undertakes and assumes all risks of dangerous conditions, if any, in and about any City premises and agrees to make an examination of all places where it will be performing the Services in order to determine whether such places are safe for the performance of the Services. The EDC also agrees to waive and release any claim or liability against the City for personal injury or property damage sustained by it or its Associates for personal injuries or property damage while performing under this Agreement on premises which are not owned by the City.

7.03 In the event any action or proceeding shall be brought against the City by reason of any claim covered hereunder the EDC, upon notice from the City, will, to the extent permitted by law, at its sole cost and expense, resist and defend the same.

7.04 The EDC agrees that it is its responsibility and not the responsibility of the City to safeguard the property and materials that it or any of its associates use or have in their possession while performing under this Contract. Further, the EDC agrees to hold the City harmless, to the extent permitted by law, for any loss of such property and materials used by any such persons pursuant to the EDC's performance under this Agreement or which is in their possession.

7.05 The indemnification obligation under this Article shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the EDC under Workers Compensation Acts or other employee benefit acts. In addition, the EDC agrees to hold the City harmless from the payment of any deductible on any insurance policy.

## **8. TERMINATION**

8.01 The City may terminate this Agreement for cause upon giving written notice of termination to the EDC at least twenty-four (24) hours before the effective date of the termination, should the EDC: (1) fail to fulfill in a timely and proper manner its obligations under this Agreement; or (2) violate any of the covenants, agreements, or stipulations of this Agreement; the EDC shall be liable to the City for any damages it sustains by virtue of this EDC's breach or any reasonable costs the City might incur enforcing or attempting to enforce this Agreement, including reasonable attorney's fees. The City may withhold any payment(s) to the EDC for the purpose of setoff until such time as the exact amount of damages due to the City from the EDC is determined. It is expressly understood that the EDC will remain liable for any damages the City sustains in excess of any setoff. If the Agreement is so terminated, the City may take over the performance of the Services and prosecute the same to completion by contract or otherwise, and the EDC shall be liable to the City for any costs occasioned to the City, thereby.

8.02 The City may terminate this Agreement without cause at any time, without incurring any further liability whatsoever, other than as stated in this Article 8, by giving written notice to the EDC of such termination (herein called a "Notice of Termination"), specifying the effective date thereof, at least twenty-four (24) hours prior to the effective date of such termination. The amount of the payment shall be computed by the City on the basis of the Services provided, which, in the judgment of the City, represents a fair value of the Services provided, less the amount of any previous payments made, which final payment the EDC agrees shall constitute full and complete payment and satisfaction under this Agreement. Should the City or the City's designee undertake any part of the

Services which are to be performed by the EDC, the EDC shall not be entitled to any compensation for the Services so performed. This Section 8.02 is subject to the maximum sum payable provision in Section 5.01.

8.03 After receipt of a Notice of Termination and except as otherwise directed by the City the EDC shall:

- a. Stop work under the Agreement on the date and to the extent specified in the Notice of Termination;
- b. Obligate no additional Agreement funds for payroll costs and other costs beyond such date as the City shall specify, and place no further orders on contractors for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Agreement as is not terminated; and require all contractors to place no further orders on subcontractors for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Agreement as is not terminated;
- c. Terminate all orders and contracts to the extent that they relate to the portion of work so terminated, and cause to be terminated all subcontracts, if any, to such extent;
- d. As of the date the termination is effective, preserve all Agreement records (as hereinafter defined) and submit to the City such records and reports as the City shall specify, and furnish to the City an inventory of all furnishings, equipment and other property purchased for the Project (if any), and all pertinent keys to files, buildings and property and carry out such directives as the City may issue concerning the safeguarding or disposition of files and property; and
- e. Submit within thirty (30) days a final report of receipts and expenditures of funds relating to this Agreement, and a listing of all creditors, contractors, lessors, and/or other parties with which the EDC has incurred financial obligations pursuant to this Agreement (if any), and a listing of all subcontractors, if any.

8.04 Upon completion or other termination of this Agreement, all finished or unfinished original documents or copies (when originals are unavailable) data, studies, surveys, drawings, maps, models, photographs, files, intermediate materials, supplies, notes, reports or other materials (herein collectively called the "Work Product") prepared by the EDC under this Agreement or in anticipation of this Agreement shall, at the option of the City, become its sole and exclusive property, whether or not in the EDC's possession, free from any claim or retention of rights thereto on the part of the EDC, except as herein specifically provided, and shall promptly be delivered to the City upon the City's request and the City shall return all EDC's properties to it. The EDC acknowledges that any intentional failure or unreasonable delay on its part to deliver the Work Product to the City will cause irreparable harm to the City not adequately compensable in damages and for which the City has no adequate remedy at law and the EDC accordingly agrees that the City may in such event seek and obtain injunctive relief in a court of competent jurisdiction and compel delivery of the Work Product which the EDC hereby consents to as well as all applicable damages and costs. The City shall have full and unrestricted use of the Work Product for the purpose of completing the Project.

8.05 Each party shall assist the other party in the orderly termination of this Agreement and' the transfer of all aspects hereof, tangible or intangible, as may be necessary for the orderly, non-disrupted business continuance of each party.

8.06 In accordance with the Federal Regulations at 24 CFR 85.43, the City may suspend or terminate this Agreement if the EDC materially fails to comply with any term of this Agreement, and the City may terminate this Agreement for convenience in accordance with the Federal Regulations at 24 CFR 85.44. In the event that the City so suspends or terminates this Agreement then the City shall so suspend or terminate this Agreement pursuant to said Federal Regulations and pursuant to Sections 8.01, 8.02, 8.03, 8.04, and 8.05 hereof, except that if there is any conflict between the said Federal Regulations and the said sections of this Agreement, then the said Federal Regulations shall govern.

## **9. ASSIGNMENT, CONTRACTING OR SUBCONTRACTING**

9.01 The EDC shall not assign or encumber directly or indirectly any interest whatsoever in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereof. Any such consent given in any one instance shall not relieve the EDC of its obligation to obtain the prior written consent of the City to any further assignment.

9.02 Except in the case of services rendered by the DEGC, which is hereby approved by the City, none of the Services covered by this Agreement shall be subcontracted by the EDC without prior review and approval by the City. Such covenant shall not constitute a basis for privity between the City and any contractors of the EDC, and the EDC agrees to indemnify and hold the City harmless from such claims initiated pursuant to any such contracts it enters into in performance of this Agreement.

9.03 This Agreement shall inure in all particulars to the City, its agents, successors and assigns.

9.04 In the event that the EDC, under this Agreement, enters into contract(s) with subcontractor(s), the EDC shall obtain independent contractors liability insurance coverage in addition to all other types of coverage required hereunder.

9.05 The parties hereto acknowledge that the Department of Housing and Urban Development requires all CDBG recipients and EDCs to keep records and report on the use of CDBG funds. Therefore the EDC shall ensure that for all contracts and subcontracts under this Agreement that each contractor shall keep records and report in sufficient detail to the EDC, and that each subcontractor, if any, shall keep records and report in sufficient detail to the contractor, on all use of CDBG funds, so as (1) to enable the City to meet all of its Federal reporting and monitoring obligations and (2) to enable the EDC to meet all of its reporting and monitoring obligations under this Agreement and/or as required by Federal Regulations. At a minimum, all record keeping and reporting requirements imposed on the contractor by the EDC shall include all record keeping and reporting requirements similarly required of the EDC herein, unless otherwise specifically provided for in this Agreement. In the event of any dispute between the parties hereto as to reporting requirements required hereunder or to be required of contractors and/or subcontractors, the reasonable determination of the City shall govern.

9.06 Costs to be paid under this Agreement which are the result of costs incurred under

- (1) cost type contracts with for-profit organizations, or cost type portions of contracts with for-profit organizations; or
- (2) cost type subcontracts with for-profit organizations, or cost type portions of subcontracts with for-profit organizations;

shall be allowable only if such costs are consistent with the Federal cost principles set forth in the Federal Regulations at 48 CFR Part 31.

9.07 The EDC shall include in all contracts under this Agreement, and cause to be included in all subcontracts under such contracts, all clauses described in the Federal Regulations at 24 CFR 85.36(I).

## **10. CONFLICT OF INTEREST**

10.01 The EDC covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Services under this Agreement

10.02 The EDC further covenants that no officer, member or employee of the City and no other public official who exercises any function or responsibilities in the review or approval of the undertaking or performance of this Agreement has personal or financial interest, direct or indirect in this Agreement or the proceeds thereof.

10.03 The EDC also hereby warrants that it shall not and has not employed any person to solicit or secure this Agreement upon any agreement or arrangement for payment of a commission, percentage, brokerage or contingent fee, either directly or indirectly, and that if this warranty is breached, the City may, at its option, terminate this Agreement without penalty, liability or obligation or may at its election, deduct from any amounts owed to the EDC hereunder, the amounts of any such commission, percentage, brokerage or contingent fee.

10.04 The EDC shall comply with the conflict-of-interest requirements at 24 CFR 570.611 and at 24 CFR 85, as applicable.

10.05 In the event the EDC has an organizational conflict of interest as defined herein, the EDC shall disclose such conflict of interest fully in the submission of the proposal and/or during the life of the contract. Organizational Conflict of Interest is defined as a situation in which the nature of work under this contract and the Contractor's organizational, financial, contractual or other interests are such that:

1. Award of the contract may result in an unfair competitive advantage; or
2. The Contractor's objectivity in performing the contract work may be impaired.

10.06 The EDC agrees that if after award it discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the Director and Executive Manager, which shall include a description of the action which the EDC

has taken or intends to take to eliminate or neutralize the conflict. The Planning and Development Department may, however, terminate the contract if it is in best interest of the City.

10.07 In the event the EDC was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Planning and Development Department may terminate the contract for default.

10.08 The Planning and Development Department reserves discretion to determine the proper treatment of any conflict of interest disclosed under this provision.

10.09 The EDC covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Services under this Agreement. The EDC further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

## **11. COMPLIANCE WITH LAWS AND SECURITY REGULATIONS**

11.01 The EDC shall comply, and shall require all employees, contractors, consultants and subcontractors to comply, with all applicable Federal, State and local laws, ordinances, codes, regulations, and policies, including, but not limited to, all security regulations in effect from time to time on the City of Detroit's premises; codes and regulations for materials belonging to the City or developed in relationship to this Project externally; Mayor's Executive Order No. 2007-1 (a copy of which is attached hereto as Exhibit I), the Detroit Living Wage Ordinance; all applicable City of Detroit Human Rights requirements, including without limitation Section 27-1-1 et seq. of the 1984 City Code; all assurances and regulations pursuant to Title I of the Housing and Community Development Act of 1974, as amended; HUD Implementary Regulations at 24 CFR Part 570; cost principles found in the Office of Management and Budget ("OMB") Circular A-87; OMB Circular A-128 as applicable (implemented at 24 CFR Part 44); OMB Circular A-133 as applicable; and the following parts of 24 CFR Part 85: Section 85.3, "Definitions"; Section 85.6, "Exceptions"; Section 85.12, "Special grant or subgrant conditions for 'high risk' guarantees"; Section 85.20, "Standards for financial management systems"; Section 85.21, "Payment", except as modified by the regulations at 24 CFR 570.513; Section 85.22, "Allowable costs"; Section 85.26, "Non-federal audits"; Section 85.32, "Equipment," except in all cases in which the equipment is sold, the proceeds shall be program income; Section 85.33, "Supplies", Section 85.34, "Copyrights"; Section 85.35, "Subawards to debarred and suspended parties"; Section 85.36, "Procurement," except paragraph (a); Section 85.37, "Subgrants"; Section 85.40, "Monitoring and reporting program performance," except paragraphs (b) through (d) and paragraph (f); Section 85.41, "Financial reporting," except paragraphs (a), (b), and (e); Section 85.42, "Retention and access requirements for records"; Section 85.43, "Enforcement"; Section 85.44, "Termination for convenience"; Section 85.51 "Later disallowances and adjustments" and Section 85.52, "Collection of amounts due."

The EDC shall save the City harmless with respect to any damages arising from any violation by it or its Associates of all laws, regulations, codes and policies named or referred to in this Article 11. The EDC shall require as part of any contractual and/or subcontractual agreement entered into under this Agreement, that the contractors and/or subcontractors comply with all such laws and regulations. The EDC shall commit no trespass on any public or private property in performing any of the Services hereunder.

If any conflict should arise regarding the interpretation of the provisions and requirements of the regulations at 24 CFR Part 85, OMB Circulars A-87, A-128 and/or A-133, or of the

applicability of the provisions and requirements of these Circulars and regulations to the EDC, the reasonable interpretation of the City shall govern. Further, if there is any conflict inherent between the OMB Circulars and the Federal Regulations themselves, the City shall determine which provisions and requirements shall apply to the EDC. The EDC may request copies of the above named OMB Circulars and regulations or their respective revisions from the City, but the EDC shall comply with all requirements of these Circulars and regulations and shall comply with all requirements of this Article 11 of this Agreement irrespective of whether the EDC requests copies of these Circulars and regulations or of their respective revisions from the City and irrespective of whether the EDC actually receives any such copies from the City.

The EDC shall carry out the Services required hereunder in compliance with all laws and regulations described in Subpart X of 24 CFR Part 570 except that the EDC shall not assume the City's environmental responsibilities described at 24 CFR 570.604 and the EDC shall not assume the City's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

The EDC shall use any real property under the control of the EDC, that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000, in such a manner so that such use, for at least five years after expiration of this Agreement, shall meet one of the three national objectives required by the Federal Regulations at 24 CFR 570.208; or, with prior written City approval, dispose of such real property in a manner that results in the City being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property, except that reimbursement shall not be so required after the five year period mentioned above in this paragraph.

In the event that, pursuant to the regulations at 24 CFR 570.503(b) (8), the EDC is required to ensure that any real property that was acquired or improved, in whole or in part, with CDBG funds in excess of \$25,000, shall be used and/or disposed of in compliance with 24 CFR 570.503(b) (8), then the EDC shall comply with all requirements of this Agreement applicable to use and/or disposition of such real property, including record keeping requirements, for five years after the expiration or termination of this Agreement.

In addition, also notwithstanding the other requirements set forth herein regarding (1) termination of this Agreement and (2) the expiration date of this Agreement, the EDC shall comply with all record keeping obligations as specified herein for as long as is required by the Federal Regulations found at 24 CFR Part 85. The four year retention period specified in the Federal Regulations pertaining to record keeping shall not begin until (1) after the date upon which the EDC no longer receives, uses, or retains the program income and/or miscellaneous revenue, irrespective of whether said date occurs after the expiration date or termination date of this Agreement; or (2) after the date required by said Federal Regulations; whichever is later.

The EDC shall be governed by the financial responsibility requirements set forth at Section 6.05, herein.

11.02 The EDC shall include or cause to be included the following language (referred to as the "Section 3 clause") in all Section 3 covered contracts and subcontracts under this Agreement and shall comply with the Federal Regulations at 24 CFR part 135, which implement section 3:

All section 3 covered contracts shall include the following clause (referred to as the Section 3 Clause):

## **SECTION 3 CLAUSE**

### **24 CFR Part 135.38 and HUD Grant Agreement**

- A. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this Contract agree to comply with HUD's Regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the Subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any Subcontractor where the Contractor has notice or knowledge that the Subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's Regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian Housing Assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of



contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

11.03 If this Agreement includes construction and the compensation exceeds \$10,000, the EDC shall comply with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR 60).

11.04 If the compensation of this Agreement exceeds \$100,000, the EDC shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, regarding which violations should be reported to HUD, the appropriate regional office of the EPA, and to the City, and Environmental Protection Agency Regulations (40 CFR, Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The EDC shall report all violations to HUD, to the USEPA Assistant Administrator for Enforcement (EN-329), and to the City.

11.05 The EDC shall comply with and recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

11.06 The EDC shall include in all procurement contracts under this Agreement and cause to be included in all subcontracts under such contracts the provisions found in the Federal Regulations at 24 CFR 85.36(i).

11.07 The EDC shall comply with all requirements of the rule entitled "New Restrictions On Lobbying" found at 24 CFR 87 (the "Lobbying Rule", hereinafter). The parties hereto acknowledge that said rule requires, but is not limited to requiring, that the EDC and all parties at lower tiers, including EDCs, Contractors and Subcontractors, not use any Federal appropriated funds to pay for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, including subawards at all tiers, and the extension, continuation, renewal, amendment, or modification of any Federal contract grant, loan, or cooperative agreement, including subawards at all tiers. The parties hereto further acknowledge that said rule requires that under certain conditions, specified therein, affected parties make certifications, file statements, and make disclosures, regarding the use of appropriated Federal funds, and regarding the use of funds which are other than appropriated Federal funds, in regard to the above described lobbying activities. The language of the certification required from the EDC and from all affected parties, including but not limited to the parties at all lower tiers, is attached to this Agreement as Exhibit C. The meaning of the terms in this Section 11.07 and in said certification shall be construed pursuant to the definitions of said terms as they are defined in the Lobbying Rule. The EDC shall require all parties at all lower tiers to comply with all requirements of the Lobbying Rule applicable to said parties and shall include the language of the certification, and require that the language of the certification be included, in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements). The EDC shall adhere to the terms of the certification and shall require all parties at lower tiers to so adhere. Notwithstanding the above described lobbying requirements, it is understood by the parties hereto that the submission of the certifications described above is required only if the compensation of this



Agreement, as it may be amended, exceeds \$100,000.00, although all other requirements of this Section 11.07 are applicable, irrespective of the amount of said compensation.

11.08 The EDC shall comply with the requirements of the HUD Reform Act of 1989, as set forth in the Federal Regulations located at 24 CFR Part 12, as applicable in regard to all applications received by the EDC in performance of the services required hereunder, shall keep records on such compliance, shall make such records available for audit, examination, and monitoring, and, if required by the City, shall report on such compliance to the City in a manner as may be required by the City. The EDC shall not be required to so comply in regard to applications received for assistance to be funded by non-Federal Housing and Urban Development Department source(s).

11.09 If the Services required hereunder include construction, the EDC shall monitor all construction work performed with assistance provided under this Agreement, if any, for compliance with all applicable Federal Labor Standards, as set forth in the regulations described at 24 CFR 85.36(i)(4)-(6) and shall report any noncompliance to the Planning and Development Department, as required by the regulations.

11.10 The parties hereto acknowledge and understand that certain obligations required of the EDC hereunder are mandated by Federal rules, regulations, and laws governing the use of Federal funds. However, in all cases in which the EDC does not use Federal funds under this Agreement, but rather uses funds which are not Federal funds, the City, upon request of the EDC, may waive any requirement which is included in this Agreement only due to Federal requirements governing Federal funds.

## **12. AMENDMENTS**

12.01 The City may consider it in its best interest to change, modify or extend a term or condition of this Agreement. Any such change, extension, or modification, which is mutually agreed upon by the City and the EDC, shall be incorporated in written amendment(s) (hereinafter called "Amendment(s)") to this Agreement. Such Amendments shall not invalidate this Agreement, nor relieve or release the EDC or the City from any of its obligations under this Agreement, except for those parts thereby amended.

12.02 No amendment to this Agreement shall be effective and binding upon the parties, unless it expressly makes reference to this Agreement, is in writing and is signed and acknowledged by duly authorized representatives of both parties, and is approved by the City Council.

## **13. AUDITS, MONITORING, RECORD KEEPING AND REPORTS**

13.01 The EDC shall make available all books documents, papers, records and project sites directly pertinent to this Agreement for monitoring, audits, inspections, examinations and making excerpts and transcriptions by the City, the Department of Housing and Urban Development, and the Comptroller General of the United States, at all reasonable times. The EDC shall make available all such books, documents, papers, and records, in their entirety, including all identifying labels and case names, with no deletions, for all such monitoring, audits, inspections, examinations, and making of excerpts and transcriptions. The EDC shall keep full and complete records documenting all Services performed under this Agreement including, but not limited to, records of all activities performed pursuant to this Agreement and all financial records associated therewith. The EDC shall require any construction contractor to permit monitoring access by the City to all relevant books and records and to the site of any construction performed under this Agreement.

All financial records pertinent to this Agreement shall be kept in accordance with generally accepted accounting practices.

The EDC shall keep a property inventory for all property purchased in whole or in part with Agreement funds, consistent with all Federal property management requirements.

13.02 All such required Records shall be maintained for a four year retention period. The retention period shall begin no earlier than on the date as specified in the regulations at 24 CFR 85; but shall not begin until after the date upon which the EDC no longer receives, uses, or retains program income and/or miscellaneous revenue, irrespective of whether said date occurs after the expiration date or termination date of this Agreement; whichever is later.

13.03 The EDC agrees to allow representative(s) of the City to make periodic inspections for the purpose of ascertaining that the EDC is properly performing the Services set forth in Exhibit A herein. Such inspections shall be made at any time during normal business hours of the EDC. If in the course of such inspections, the representative(s) of the City should note any deficiencies in the EDC's agreed upon Services, such deficiencies may be reported promptly to the EDC in writing. The EDC agrees to promptly remedy and correct any such reported deficiencies within ten (10) days of notification by the City.

13.04 Nothing contained herein shall be construed or permitted to operate as any restriction upon the power granted to the City Council by the City Charter to audit and allow all accounts chargeable against the City. Pursuant hereto, the City shall have the right to examine and audit all books, records, documents and other such supporting data as the City may deem necessary of the EDC and any contractors, subcontractors, consultants or agents rendering Services under this Agreement whether direct or indirect which will permit adequate evaluation of the cost or pricing data submitted by the EDC. The EDC shall include a similar covenant allowing for City audit and monitoring and Federal audit and monitoring in any contract and/or subcontract it has with a contractor, subcontractor, agent or consultant whose services will be charged directly or indirectly to the City. The City may delay payment to the EDC pending the results of any such audit or monitoring without penalty or interest.

#### **14. FAIR EMPLOYMENT PRACTICES AND NON-DISCRIMINATION REQUIREMENTS**

14.01 In accordance with the United States Constitution and with all Federal legislation and regulations governing fair employment practices and Equal Employment Opportunity, including, but not limited to, Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 78 STAT. 252), and United States Department of Justice Regulations (28 CFR Part 42) issued pursuant to that Title; Title VII of the Civil Rights Act of 1964 (42 USC Sec. 2000 (e) et seq, and in accordance with the Michigan Constitution and all state laws and regulations governing fair employment practices and equal opportunity, including but not limited to, the Michigan Civil Rights Act (P.A. 1976 No. 453, including Section 209) and the Michigan Handicappers Civil Rights Act (P.A. 1976 No.220), the EDC agrees that it will not discriminate against an employee or application for employment with respect to hire, tenure, terms, conditions or privileges of employment with respect to national origin, age, sex, height, weight, marital status, or handicap that is unrelated to the individual's ability to perform the duties of a particular assignment or position. Also, in performance of this Agreement, the EDC shall comply with the American with Disabilities Act of 1990, P.L. 101-336, 104 Stat. 328, which prohibits discrimination against individuals with disabilities and provides enforcement

standards. The EDC hereby recognizes the right of the United States and the State of Michigan to seek judicial enforcement of the foregoing covenants against discrimination, against itself or its contractors and/or subcontractors connected directly or indirectly with the performance of this Agreement.

14.02 The EDC agrees that it will notify, or cause to be notified, any contractor and/or subcontractor of the obligations relative to nondiscrimination under this Agreement when soliciting same, and will cause any such contractor to so notify any such subcontractor, and will include or cause to be included the provisions of this Article 14 in any contract or subcontract, as well as provide the Court a copy of any contract upon request.

14.03 Breach of the terms and conditions of this Article may be regarded as a material breach of this Agreement.

## **15. NOTICES**

15.01 All notices, consents, approvals, requests and other communications (herein collectively called "Notices") required or permitted under this Agreement shall be given in writing, and, when given by the EDC, signed by an authorized representative of the EDC, and delivered, or mailed by first-class mail and addressed as follows:

If to the City:

Director  
Planning and Economic Development Department  
2300 Cadillac Tower  
Detroit, Michigan 48226  
Attention: Paul Aleobua

If to the EDC:

Economic Development Corporation of the City of Detroit  
c/o Detroit Economic Growth Corporation  
500 Griswold, Suite 2200  
Detroit, Michigan 48226  
Attention: Kelly Shovan

15.02 All notices shall be deemed given on the day of mailing. Either party to this Agreement may change its address for the receipt of notices at any time by giving notice thereof to the other as herein provided. Any notice given by a party hereunder must be signed by an authorized representative of such party.

15.03 Notwithstanding the requirement above as to the use of first class mail, changes of address notices, termination notices, notices to proceed and all legal notices of a pending action (complaint, summons, etc.) or failure to comply notices, shall be sent by registered first class mail, postage prepaid, return receipt requested.

## **16. MISCELLANEOUS**

16.01 No failure by the City to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right, term, or remedy consequent upon a breach thereof, shall constitute a waiver of such breach of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall constitute in full force and effect with respect to any other then existing or subsequent breach thereof.

16.02 Each party reserves and shall have the exclusive right to waive, at its sole discretion, and to the extent permitted by law, any requirement, or provision, in its favor, under this Agreement unless such waiver is specifically prohibited herein. No act by or on behalf of the party shall be, or shall be deemed to be, a waiver of any such requirement or provision, unless the same be in writing, signed by the authorized representative of the party and expressly stated to constitute a waiver.

16.03 This Agreement, including Exhibits A, B, C, D, E, F, G and H, attached hereto, which are made a part of this Agreement, and all prior negotiations and agreements are merged herein. Neither the City nor the City's agents have made any representations except those expressly set forth herein, and no rights or remedies are or shall be acquired by the EDC by implication or otherwise unless expressly set forth herein. The EDC shall comply with all terms and conditions set forth in the Exhibits as attached hereto and shall utilize all sample forms included as Exhibits, as applicable, unless allowed otherwise by the City.

16.04 Unless the context otherwise expressly requires, the words "herein", "hereof", and the words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

16.05 All the terms and provisions of this Agreement shall be deemed and construed to be "covenants" and "conditions" as though the words specifically expressing or imparting covenants and conditions were used in each separate term and provision.

16.06 The headings of the sections in this Agreement are for convenience only and shall not be used to construe or interpret the scope of intent of this Agreement or in any way affect the same.

16.07 The rights and remedies set forth herein are not exclusive and are in addition to any of the rights and remedies provided by law or equity. This Agreement shall be governed by, subject to, and construed according to the laws of the State of Michigan. The EDC agrees, consents and submits to the personal jurisdiction of any competent court in Wayne County, Michigan, for any action brought against it arising out of this Agreement. The EDC agrees that service of process at the address and in the manner specified in Article 15 herein, will be sufficient to put the EDC on notice and hereby waives any and all claims relative to such notice. The EDC also agrees that it will not commence any action against the City because of any matter whatsoever arising out of or relating to the validity, construction, interpretation and enforcement of this Agreement, in any Courts other than those in the County of Wayne, State of Michigan, unless original jurisdiction can be had in either the Michigan Court of Appeals or the Michigan Supreme Court.

16.08 If any Affiliate (as hereinafter defined) of the EDC shall take any action which, if done by a party, would constitute a breach of this Agreement, the same shall be deemed a breach by the EDC with right legal effect. "Affiliate" shall mean a "parent", subsidiary or other company controlling, controlled by or in common control with the EDC.

16.09 Neither party shall be responsible for force majeure events. In the event of a dispute between the parties with regard to what constitutes a force majeure event, the City's determination shall be controlling. Except, that in the event of an occurrence beyond the control of the parties hereto, the City may, at its sole option, terminate this Agreement. Such termination shall be made in accordance with the provisions of Section 8.02 herein.

16.10 The EDC warrants that any products sold or processes used in the performance of this Agreement do not infringe upon or violate any patent, copyright, trademark, trade secret or any other proprietary rights of any third party. In the event of any claim by any third party against the City, the City shall promptly notify the EDC and the EDC shall pay for the full reasonable cost of the City defending such claims, but at the EDC's expense, and shall indemnify the City against any loss, cost, expense or liability arising out of such claim, whether or not such claim is successful.

16.11 The EDC covenants that it is not, and will not become, in arrears to the City upon any contract, debt or other obligation to the City, including real property, personal property and income

taxes. The EDC shall require that, as a condition of contracting and/or subcontracting, that any and all contractors and/or subcontractors shall also agree to be bound by the provisions of this Section.

16.12 This Agreement may be executed in any number of counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Promptly after the execution thereof, the City shall submit to the EDC a confirmed copy of this Agreement.

16.13 As used herein, the singular shall include the plural, the singular, and the use of any gender shall be applicable to all genders.

16.14 For purposes of the hold harmless provision contained herein, the term "City" shall be deemed to include the City of Detroit, and all other associated, affiliated, allied, or subsidiary entities now existing or hereafter created, their agents and employees, but shall not include the EDC or any of its contractors or subcontractors.

16.15 If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16.16 The EDC shall not, directly or indirectly, employ, award contracts to, or otherwise engage the services of, or fund any contractor, or subcontractor or EDC, or principal as defined in the Federal regulations at 24 CFR 24.105, during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR, Part 24. If during the term of this Agreement, the EDC is placed on the HUD debarred list, or is placed in ineligibility status, or is suspended, pursuant to the regulations at 24 CFR Part 24, the EDC shall immediately notify the City.

The EDC shall submit to the City a certification regarding debarment, suspension, ineligibility and voluntary exclusion utilizing the form attached hereto as Exhibit G, and in conformance to the instructions thereon.

The EDC shall require all parties who stand in a lower tier relationship to the EDC, if any, to submit said certification to the EDC, if such lower tier relationship is a covered transaction defined at 24 CFR 24.110. The EDC shall also require all parties who occupy a position with the EDC defined at 24 CFR 24.105 as a principal to submit said certification to the EDC.

The EDC shall require all sub-EDC agreements, contracts, and subcontracts under this Agreement to contain a provision comparable to this Section 16.16.

In the event that no Federal funds are used to fund this Agreement, the EDC shall not be required to comply with this Section 16.16.

16.17 If any payments under this Agreement are contingent upon receipt of grant funds by the City, the City of Detroit reserves the right to delay payment until receipt of adequate funds from the government grantor agency, without penalty or interest.

16.17 It is understood that this is not an exclusive service contract, and that during the term of this Agreement, the City may contract with other consulting firms and that the EDC is free to render the same or similar advisory services to other clients.

17.19 The EDC warrants that it is currently registered to do business in the State of Michigan and is amenable to service or process at the address stated in Section 16.01, "Notices".

17.20 The EDC hereby designates the President of DEGC as its authorized representative(s) for purposes of this Agreement.

## **18. CONFIDENTIALITY**

18.01 In order that the EDC effectively fulfill its covenants and obligations to the city under this Agreement, it may be necessary or desirable for the City to disclose confidential and proprietary information to the Employees pertaining to the City's past, present, and future activities. Since it is difficult to separate confidential and proprietary information from that which is not, the EDC shall instruct personnel and consultants to regard all information gained by each such person, as a result of the Services to be performed hereunder, as information which is proprietary to the City and not to be disclosed to any organization or individual without prior consent of the Interim Director of Planning and Development.

18.02 The EDC agrees to take appropriate action with respect to its personnel to insure that the obligations of nonuse and nondisclosure of confidential information concerning this Agreement can be fully satisfied.

18.03 All of the reports, information, data, etc., prepared or assembled by the EDC under this Agreement are confidential and the EDC agrees that they shall not be made available to any individual or organization without prior written consent of the Director of the Planning and Development Department except as required by Federal law pursuant to Article 14 herein, and except as required by any other requirements or provisions of this Agreement.

## **19. LABOR STANDARDS**

19.01 In the event that Federal funds are used to pay for any construction under this Agreement, the EDC shall require that all necessary contract language required by OMB Circular A-110, Attachment O, Sections 4 (e), (f), and (g) be included in all construction contracts and subcontracts for construction performed with assistance provided under this Agreement, unless such construction work is not subject to the requirements of said language. The EDC shall require that all necessary contract language required by City of Detroit Executive Order 2007-1 be included in all construction contracts and subcontracts for construction performed with assistance provided under this Agreement, unless such construction work is not subject to the requirements of said language. The EDC shall comply with said requirements, both Federal and City, unless the City notifies the EDC in writing of any exception to applicability of said requirements. In the event of any dispute between the EDC and the City as to whether construction work performed under this Agreement is or is not subject to said requirements, the determination of the City shall govern. In the event that the EDC should directly employ workers on actual construction, the EDC shall comply with (1) all Federal labor standards applicable to the employment of such workers; and (2) City of Detroit Executive Order 2007-1.

19.02 The EDC shall monitor all construction work performed under this Agreement, for compliance with all applicable Federal Labor Standards, including those set forth in the regulations described at 24 CFR 85.36(i)(4)-(6), if applicable, and shall report any noncompliance to the Planning and Development Department, as required by the Circular and shall comply with City of Detroit Executive Order 2007-1 or cause compliance with said Executive Order.

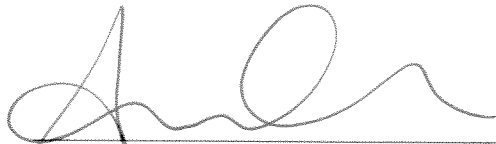




CITY ACKNOWLEDGEMENT

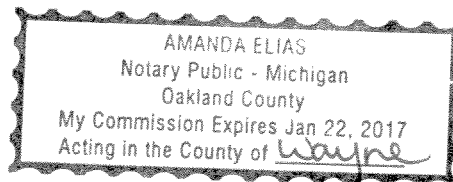
STATE OF MICHIGAN     )  
                                      )SS.  
COUNTY OF WAYNE     )

The foregoing instrument was acknowledged before me this 15 day of  
December,  
2014, by F. Thomas Lewand, the Group Executive-Jobs & the  
of the City of Detroit, Michigan, a municipal corporation Economy



Notary Public, Wayne County, Michigan

My commission expires: 1/22/17



## **EXHIBIT A**

### **Scope of Services**

#### **Economic Development Corporation 2014-2015**

1.01 EDC shall perform in a satisfactory and proper manner the services listed hereunder and shall use its best efforts and endeavors to promote the interest of the City and devote such skill, knowledge and professional ability as is necessary to most effectively and efficiently carry out and perform the following services during the term of this Agreement and any extension thereof:

A. The EDC shall:

(1) Provide such assistance to private companies and organizations as may enable them to:

(a) locate or relocate within the City of Detroit, and/or

(b) create or retain jobs available primarily to low and moderate income persons.

Such assistance shall include, but shall not necessarily be limited to, information on available land, tax incentives, and special financing;

(2) Assist the City in the marketing of City owned land available for economic development;

(3) Work with the City and other agencies to establish and formulate plans for economic development in the City of Detroit;

(4) Perform those activities necessary to implement the EDC Work Program attached hereto as Exhibit F using the Program as a guideline; and

(5) Perform such other federally eligible economic development activities as may be agreed upon from time to time by the parties hereto.

B. The EDC, in order to carry out the above listed activities, shall:

(1) Consult with the City at least once a month on matters relating to the economic development of the City and on

preparation of general and specific plans and programs to further such development.

(2) Provide to commercial and industrial enterprises, both public and private, information and assistance in matters relating to new or continued activity which will maintain and expand the economic development of the City.

(3) If properly and specifically requested in writing by the City, and if authorized by the Board of Directors of EDC, if needed, act for the City pursuant to this Agreement in execution and performance of contracts, options, purchases, leases, conveyances, loans and security agreements involving real or personal property, or any interests therein, relating to the economic development of the City. Nothing contained herein shall be construed to diminish in any manner the authority and power of the City Council of the City of Detroit nor the EDC to reject such request.

(4) If requested in writing by the City, and approved by the EDC Board of Directors, develop and administer specific projects and programs requested by the City, under the general direction of the officers of EDC and any employees designated as project coordinators for said projects and programs.

(5) Unless advised to the contrary in writing by the City, continue to provide administrative and technical assistance for projects and programs previously requested by the City and authorized by the Board of Directors of EDC.

(6) Unless advised to the contrary in writing by the City, continue to perform the liaison function between the public, private and community sectors for the development of specifically City designated projects and for the purpose of improving communications and establishing and maintaining mutual understanding related thereto.

1.02 EDC shall, upon request by the City, make available to the City any documents in EDC's possession relating to matters with respect to which EDC has rendered services under this Contract.

1.03 EDC shall not be required to engage in any activity which in the opinion of its legal counsel would be inconsistent with Act 338.

**EXHIBIT B**

**ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF DETROIT  
OPERATING BUDGET  
FISCAL YEAR 2014-2015**

**ADMINISTRATIVE SERVICES:**

Contract with Detroit Economic Growth Corporation	\$255,000
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<b>TOTAL BUDGET</b>	<b><u>\$255,000</u></b>
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## EXHIBIT C

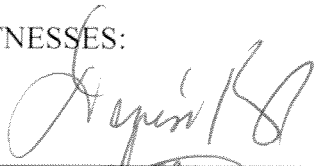
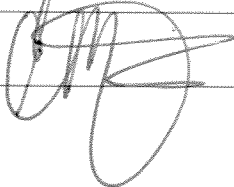
### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all EDCs shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

WITNESSES:

  
\_\_\_\_\_  
  
\_\_\_\_\_

EDC, CONTRACTOR OR  
SUBCONTRACTOR:

By:  \_\_\_\_\_

Its: Authorized Agent \_\_\_\_\_

DATE: 6/30/14 \_\_\_\_\_

## EXHIBIT D

### EXECUTIVE ORDER NO. 2007-1

THIS LANGUAGE MUST BE INCLUDED IN ALL BID PACKAGES, CONTRACTS AND SUBCONTRACTS FOR ALL CONSTRUCTION AND DEMOLITION PROJECTS, TO WHICH EXECUTIVE ORDER NO. 2007-1 APPLIES

### EXECUTIVE ORDER NO. 2007-1 - EMPLOYMENT OF LOCAL LABOR ON PUBLICLY FUNDED CONSTRUCTION AND DEMOLITION PROJECTS:

Per Executive Order No. 2007-1, worker hours on any construction project funded in whole or in part by city, state, or federal funds shall be performed by not less than 50% bona fide Detroit residents, not less than 25% minorities and at least 5% women. Where possible these percentages shall be applied on a craft-by-craft basis. For purposes of Executive Order No. 2007-1, worker hours shall include work performed by persons filling apprenticeship and on-the-job training positions.

The contractor shall include Executive Order No. 2007-1 by reference in all subcontracts at all levels.

For each project or portion thereof, documentation of compliance shall include: (1) a list of all proposed employees indicating address, telephone number, social security number, trade, sex and race or minority status, and projected worker hours for each; and (2) projected total worker hours. Documentation shall be submitted prior to contract award. After contract award, proposed changes in the workforce shall be submitted for approval.

Where, for reasons due to the nature of the contractor or trade, or for other reasons acceptable to the City, a list of intended employees is not submitted, a detailed plan will be submitted by the contractor which sets forth the entire proposed composition of the workforce, the manner in which such workforce is to be obtained, and any other details required by the City to assure sufficient specificity, intent to comply and ultimate compliance with Executive Order No. 2007-1

Failure to comply with the provisions of Executive Order No. 2007-1 shall constitute a material breach of the contract, and the City may exercise those rights provided to it under the contract and by law. Sanctions may include, but are not limited to, termination of all or part of the contract, withholding of payment, and/or liquidated damages. Additionally, performance by the contractor in regard to Executive Order No. 2007-1 may be considered in determining the contractor's awardability for future City contracts.

Any person who knowingly submits false information, makes misrepresentations, or commits fraud or any other willful violation under Executive Order No. 2007-1 shall be subject to maximum civil liabilities and criminal penalties allowable under the law.

## **EXHIBIT E**

### **REPORT REQUIREMENTS**

EDC shall submit to the City a quarterly activity report, in a format mutually agreeable between the parties, providing information on performance under this Contract. Also, to the extent feasible, this report shall relate those out-of-pocket costs incurred directly on behalf of the City for which reimbursement is requested in the monthly requisition for payment detailed in Article 6 herein to the performance of the EDC during the month(s) for which payment is requested. The City may require certain data to be collected including data generated by activity performed by EDC under Previous Contract(s), and then reported on by EDC, in order to enable the City to meet all local and Federal requirements.

### **REPORT REQUIREMENTS**

The EDC further understands and agrees that the above stated Exhibit E report requirements may be changed to conform to the requirements of an ordinance, rule, regulation or policy of the City of Detroit or HUD.

In addition to the report requirements of this Exhibit E, the City Contract Management System, or any current modifications thereof, may require that further EDC performance data may need to be reported upon. The EDC agrees to provide the City with any data that the Contract Management System shall require. The City agrees that no unreasonable additional requirement shall be imposed upon the EDC as to data to be reported. The City shall base any such additional reporting requirements on Federal Regulations and the City's program monitoring needs.



## **EXHIBIT F**

### **THE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF DETROIT**

#### **PROPOSED WORK PROGRAM 2014-2015**

The Economic Development Corporation of the City of Detroit (EDC) is a public body corporation created by the City Council of the City of Detroit by enactment of Ordinance 120-H effective June 9, 1979 under enabling state legislation Public Act 338 of 1974 as amended.

The EDC engages in activities which strengthen and revitalize Detroit's economic base by providing increased employment opportunities. The EDC promotes economic development such as renovation, facility modernization, expansion, real estate acquisition, leasing, relocation, retention and business attraction.

The EDC has the power to establish project areas where jobs are at stake and to acquire property for public purpose or blight remediation so that new enterprises may be attracted or existing businesses can grow and/or be refurbished.

The effective use of the statutory powers of the EDC results in the expansion of the City's tax base while retaining jobs and creating new employment opportunities. The EDC is governed by a nine member Board of Directors who serve staggered six year terms after being appointed by the Mayor and confirmed by City Council. For each project (defined in Act 338), two additional Special Directors (appointed and confirmed in the same manner) serve for the duration of, and only for that particular project. Special Directors provide citizen input regarding the interests of businesses and residents in the area of the project.

Shortly after its creation, the Board of Directors of the EDC contracted with the Detroit Economic Growth Corporation to provide staff services. This relationship has continued through the 2013-2014 fiscal year and is proposed to be extended in 2014-2015

Being housed in and supported by its staff, the Detroit Economic Growth Corporation provides the EDC with a high degree of professional support services. The Growth Corporation also provides staff for the Downtown Development Authority, Local Development Finance Authority, and the Brownfield Redevelopment Authority. Having these complimentary agencies under one roof makes efficient use of staff support services and provides a multitude of assistance options that combined with the City's inherent abilities provide a customized package to encourage economic development projects in Detroit.

The major components of the EDC responsibilities which it will continue to pursue in 2014-2015 are as follows:

## **Maintenance of the Corporation**

The EDC holds regular monthly Board meetings and special meetings as required. Staff provides the Board with agenda and background information on projects proposed for its assistance. Staff prepares project plans, contracts, and other items for Board action, and in addition, the Board is provided periodic status reports of the various projects under its control. These projects encompass a wide array of types and varying degrees of assistance. The EDC proposes to continue these functions which are composed of the following:

### **Issuance of Industrial Revenue Bonds**

A primary mechanism used to financially assist businesses is tax exempt Industrial Revenue Bonds which provide attractive interest rates to potential employers. Proceeds from the sale of the bonds may be used by the EDC to acquire, maintain and develop the necessary land, buildings, machinery, furnishings and equipment for a designated project.

Since its inception, the EDC has issued over \$482,000,000 in bonds to support 54 projects.

### **Loan Administration**

During its existence, the EDC has been requested by the City to make and administer various economic development loans from funds provided by the City. The major source of these funds has been Urban Development Action Grants (UDAGs), Community Development Block Grant (CDBG) and the Department of Housing and Urban Development Section 108 loans. The EDC utilizing the DEGC computerized loan portfolio, administers each loan providing the EDC Board and the city with periodic updates of their status.

Repayments of CDBG and UDAG loans are placed in the EDC Development Fund and reloaned to eligible development projects under guidelines established by the Board of Directors. Loans of this nature are generally made to projects which do not meet the requirements of existing generic loan programs provided by the DEGC, such as the Detroit Industrial Revolving Loan fund.

## **Property Transfers**

The EDC has and will continue to serve as the conduit for property transfers from the City and private industry to provide sites for economic development projects. Mexican Industries, Thyssen Steel Group, and the Development of North Industrial Park are an example of the utilization of these services. With the new emphasis on identifying and marketing city-owned properties, the EDC feels its role in this area will increase substantially.

## **Special Projects**

Over the years, the EDC has provided a multitude of services and assistance to the City's economic development efforts. These services range from obtaining options, having appraisals conducted, and securing environmental reviews to the large undertakings of the General Motors Central Industrial Park, I-94 Industrial Park, and the New Chrysler/Jefferson projects. At the request of the City the EDC has the ability to quickly respond and accomplish selected items in an economic development project, or when necessary, carry out the entire project including such efforts as land assembly, site preparation, and infrastructure modifications. The close cooperative relationship that has been established between the City's economic development forces and the EDC staff, provide the City with a flexible rapid response partner, to enhance its development efforts.

During 1998-99, at the request of the City, the EDC began its Waterfront Reclamation and Casino Development Project. It is expected that this project will continue for the next several fiscal years. The EDC has entered into a contract with the City relative to this project.

During 2005-06, at the request of the City, the EDC began the Casino Development Fund Program. This program, utilizing Casino Development Fund dollars will provide opportunities for small and targeted businesses to help them in their business endeavors. The EDC has entered into a contract with the City relative to this project.

In summary, the EDC while fulfilling its assigned duties, stands ready as a willing, flexible, and cooperative partner to provide a rapid response to assist the City of Detroit in its economic development efforts.

## **NEIGHBORHOOD DEVELOPMENT CORPORATION**

At the request of the City, on November 21, 1996 the EDC formed a subsidiary neighborhood development corporation (NDC) pursuant to Section 6a of the EDC Act. Pursuant to the Act, the NDC may conduct business for the sole purpose of housing and neighborhood improvement programs involving the clearing of land or the rehabilitation or construction of housing for the immediate sale of single-family or multi-family units at fair market value. The NDC has prepared a Project Plan for its Project #1, which was approved by City Council. For FY 2014-2014, the NDC will continue acquiring property and coordinate the infrastructure work within the project area.

## **EXHIBIT G**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

#### **Instructions for Certification**

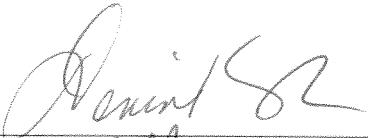
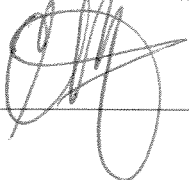
1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Tel.#).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.


CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS.

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by an Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

WITNESSES:

  
\_\_\_\_\_  
  
\_\_\_\_\_

EDC, Contractor  
Subcontractor, or Principal

By:   
\_\_\_\_\_  
Its: Authorized Agent  
\_\_\_\_\_  
Date: 6/30/14  
\_\_\_\_\_

## EXHIBIT H

### EXECUTIVE ORDER NO. 2007-1

**TO:** ALL BOARDS, COMMISSIONS, DEPARTMENT DIRECTOR  
CITY COUNCIL MEMBERS, AND THE CITY CLERK

**SUBJECT:** UTILIZATION OF DETROIT RESIDENTS ON PUBLICLY-FUNDED  
CONSTRUCTION PROJECTS

**DATE:** SEPTEMBER 10, 2007

It is the policy of this Administration to encourage and maximize the utilization of Detroit residents on publicly-funded construction projects. An important component of the economic revitalization of Detroit is the employment of Detroit residents.

This Executive Order directs City departments and agencies to implement specific residency requirements on all construction projects funded, in whole or in part, by the City and applies to those funded by state or federal funds to the extent permitted by law.

All City of Detroit project construction contracts shall provide that at least **fifty-one percent (51%)** of the workforce must be bona-fide Detroit residents. In addition, Detroit residents shall perform **fifty-one percent (51%)** of the hours worked on the project. Workforce and project hours shall include work performed by Detroit residents in the various job categories: officials and managers; supervisors and forepersons, professionals, technicians, sales workers, office and clerical, skilled trades, craft workers, operators, laborers, service workers, apprentices, and on-the-job training positions.

Failure to meet the Detroit resident workforce requirement, including project hours, will result in the following monthly financial penalties.

#### Financial Penalties

##### Detroit Resident Hours

	<i>Monthly Recruitment Fee</i>
45%-50%	3%
40%-44%	7%
30%-39%	10%
0% - 29%	15%

Developers, general contractors, prime contractors and sub-contractors are required to pass the requirements of this Executive Order down to all lower-tier contractors. However, it is the sole responsibility of the entity contracting with the City of Detroit to require all of their contractors to comply with the City of Detroit requirement to utilize fifty-one percent (51%) of Detroit residents on construction projects. In reaching the Detroit residency requirement, local union halls may be utilized, however, the City of Detroit Workforce Development Department

and/or its designee shall be the first source utilized to recruit and hire Detroit residents; where Detroit residents are unavailable at the local union halls. **Failure to meet the requirements of this Executive Order will constitute a breach of contract and may result in immediate termination of the contract.**

At the option of the City of Detroit, any developer, general contractor, prime contractor, sub-contractor, or lower-tier contractor that is deficient in the utilization of Detroit residents may be barred from doing business with the City of Detroit for one (1) year. In addition, the City of Detroit reserves the right to re-bid the contract, in whole or in part, and/or hire its own workforce to complete the work.

All construction contracts, construction contract amendments, change orders, and extensions shall include the terms of this Executive Order. The Human Rights Department shall have the responsibility for preparing administrative guidelines, monitoring, and enforcing the provisions of this Executive Order

**This Executive Order supersedes Executive Order No. 22 issued by Mayor Coleman A. Young on August 29, 1983.** This executive order is effective November 1, 2007.

**Signed: Kwame M. Kilpatrick**

**Detroit City Council**  
Legislative Policy Division

TO: Purchasing Division Staff  
FROM: David Teeter  
DATE: February 3, 2015

RE: **PURCHASING ITEMS APPROVED BY THE CITY COUNCIL**

The following are contracts that were considered by the City Council at the *Adjourned Session of Thursday, January 29, 2015*.

*The following contracts, purchase orders and other matters were reported to the City Council, by the indicated Standing Committee, at the Adjourned Session of January 29, 2015, and **APPROVED**.*

**Reported by Internal Operations Committee**

87068 Charles S. McEwen \$4,000 INSPECTOR GENERAL  
Submitted in the List for January 27, 2015; Referred to the Adjourned Session  
Correction submitted to the term and contract amount; Approved with ***WAIVER***.

**Reported by Public Health and Safety Committee**

2902527,Lease Boulevard Holdings (2875 W.Grand Blvd) \$2,727,752 POLICE  
Walked on to Committee Meeting Jan. 26; Moved to New Business; Moved to Adjourned Session.

**One contract was Reconsidered at the Session of February 3, 2015, that was approved at the Adjourned Session of January 29, 2015**

2902527,Lease Boulevard Holdings (2875 W.Grand Blvd) \$2,727,752 POLICE  
Request to Reconsider by Council Member Scott Benson; Reconsideration Approved;  
Vote to consider the Contract **POSTPONED** 1 Week.

*The following contracts and purchase orders were reported to the City Council by the indicated Standing Committee, at the Regular Session of February 3, 2015 and **APPROVED***

**Reported by the Budget, Finance and Audit Committee:**

No Contracts Reported



Purchasing Division  
Contracts and Purchase Orders Received, Considered at Regular Session  
of February 3, 2015

Page 2

*The following contracts and purchase orders were reported to the City Council by the indicated Standing Committee, at the Regular Session of February 3, 2015 and **APPROVED***

**Reported by the Internal Operations Committee:**

No Contracts Reported

**Reported by the Neighborhood and Community Services Committee:**

No Contracts Reported

**Reported by the Planning and Economic Development Committee:**

2892521, Amend. Corporate F.A.C.T.S. No. Increase to \$2,135,137 PLAN.&DEVELOPT.  
Submitted in the List and Referred on January 27, 2015; Includes corrections submitted Jan. 30, 2015.

2899854 Detroit Economic Development Corp. \$255,000 PLAN.&DEVELOPT.  
Submitted in the List and Referred on January 27, 2015; Approved with **WAIVER**.

2899858 Detroit Economic Growth Corp. \$865,837 PLAN.&DEVELOPT.  
Submitted in the List and Referred on January 27, 2015; Approved with **WAIVER**.

**Reported by the Public Health and Safety Committee:**

2901177 Walker's Heating & Cooling \$149,861.61 TRANSPORTATION  
Submitted in the List for the Week of December 15, 2014.

2897760 Automotive Media d/b/a IM Branded \$33,833 FIRE  
Submitted in the List and Referred January 13, 2015.

2899374, Revenue Comerica Bank Corp. Est. Revenue not indicated POLICE  
Submitted in the List and Referred January 13, 2015.

2900062 (MiDeal) – Motorola Solutions \$7,500,000 **QOL** POLICE  
Submitted in the List and Referred January 13, 2015.

2899331 CTT Equipment \$147,200 TRANSPORTATION  
Submitted in the List and Referred October 28, 2014; Approved November 12, 2014 for \$135,200;  
Correction to Cost, for \$147,200, Referred January 13, 2015.

Purchasing Division  
Contracts and Purchase Orders Received, Considered at Regular Session  
of February 3, 2015

Page 3

*The following contracts and purchase orders were reported to the City Council by the indicated Standing Committee, at the Regular Session of February 3, 2015 and **APPROVED***

**Reported by the Public Health and Safety Committee:** *continued*

2901820	Crestline Specialties	\$54,000	TRANSPORTATION
	Submitted in the List and Referred January 20, 2015.		
2821497,Ext.	PIE Management (IT services)	No +\$ to \$5,000,000	ADMIN.HEARINGS
	Submitted in the List and Referred January 20, 2015.		
2900137	Detroit Building Authority	\$240,000	AIRPORT
	Submitted in the List and Referred January 20, 2015.		
2900804	Booth Research Group (Promotion Exams)	\$226,000	POLICE
	Submitted in the List and Referred January 20, 2015.		
86955	Tiffany Perry (Victims Assist.Advocate)	\$36,400	POLICE
	Submitted in the List and Referred January 20, 2015.		
2901724	AIS Construction Equipment	\$165,200	PUBLIC WORKS
	Submitted in the List and Referred January 20, 2015.		

*The following contracts were **REFERRED** on February 3, 2015 to the indicated Standing Committee for consideration and report to the City Council.*

**Referred to Budget, Finance and Audit Committee**

No Contracts Referred

**Referred to Internal Operations Committee**

No Contracts Referred

**Referred to Neighborhood and Community Services Committee**

No Contracts Referred

Purchasing Division  
Contracts and Purchase Orders Received, Considered at Regular Session  
of February 3, 2015

Page 4

*The following contracts were **REFERRED** on February 3, 2015 to the indicated Standing Committee for consideration and report to the City Council.*

**Referred to Planning and Economic Development Committee**

2893571,Ext.	Det.Rescue Mission Ministries	PLANNING & DEVELOPMT.
2893809,Ext.	Cass Comm. Social Services	PLANNING & DEVELOPMT.
2893819,Ext.	Operation Get Down	PLANNING & DEVELOPMT.

**Referred to Public Health and Safety Committee**

No Contracts Referred

*The following items have been HELD for review, discussion or report to the Standing Committees.*

**Internal Operations Committee**

2877416,Chg. Computech Corporation + \$1,015,562.67 to \$2,700,562.67 HUM.RESOURCE  
Submitted in the List and Referred January 13, 2015; Questions from CM Cushingberry

2877420,Chg. FutureNet Group + \$1,117,011.10 to \$2,802,011.10 HUM.RESOURCE  
Submitted in the List and Referred January 13, 2015; Questions from CM Cushingberry

2903277 American Society of Employers \$10,270 HUMAN RESOURCES  
Submitted in the List and Referred January 27, 2015.

2903278 Magnet Consulting \$373,830 HUMAN RESOURCES  
Submitted in the List and Referred January 20, 2015.

2903279 Polaris Assessment Systems \$227,997 HUMAN RESOURCES  
Submitted in the List and Referred January 20, 2015.

2903280 Right Management \$405,000 HUMAN RESOURCES  
Submitted in the List and Referred January 20, 2015.

**Public Health and Safety Committee**

2901532 Detroit Building Authority (St. Maint.Build.) \$4,500,000 PUBLIC WORKS  
Submitted in the List and Referred January 13, 2015; Question about new construction.



CITY OF DETROIT  
FINANCE DEPARTMENT  
PURCHASING DIVISION

COLEMAN A. YOUNG MUNICIPAL CENTER  
2 WOODWARD AVE., SUITE 1008  
DETROIT, MICHIGAN 48226  
PHONE 313•224•4600  
FAX 313•628•1160  
WWW.DETROITMI.GOV

January 20, 2015

HONORABLE CITY COUNCIL:

## SPECIAL LETTER

### PLANNING AND DEVELOPMENT

- 2899854      100% City Funding – To Provide Professional Services to Private Companies and Organizations to Assist them in Locating/Relocating in the City of Detroit and Create/Retain Jobs to the Low and Moderate Income Citizens of the City of Detroit; Assit in Marketing of City owned Property; Work with the City and other Agencies to Establish and Formulate plans for the City – Contractor: Economic Development Corporation, Location: 500 Griswold, Suite 2200, Detroit, MI 48226 – Contract Period: Upon City Council and FRC Approval through June 30, 2015 – Contract Amount: \$255,000.00
- 2899858      100% City Funding – Contractor: Detroit Economic Growth Corporation, Location: 500 Griswold, Suite 2200, Detroit, MI 48226 – Contract Period: Upon City Council and FRC Approval through June 30, 2015 – Contract Amount: \$865,837.00

To Provide Professional Services to Private Companies and Organizations to Assist them in Locating/Relocating in the City of Detroit and to Create/Retain Jobs to Low and Moderate Income Citizens.

1. Assist in Marketing of City owned Property;
2. Work with the City and other Agencies to Establish and Formulate plans for Economic Development in the City;
3. Perform necessary activities to implement the DEGC Work Program,
  - Interface with neighborhood organizations in their efforts to develop residential/retain/commercial/industrial projects throughout the City
  - Marketing of Sites

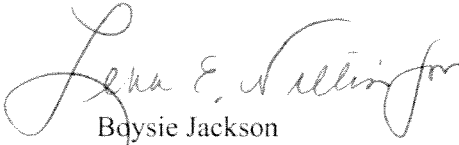
**POLICE**

2902527      100% City Funding – To Provide the Leasing of property located at 2875 West Grand Boulevard, Detroit, Michigan to Relocate the current Central District Police Operations for space planning/consolidation purposes and to relieve the City of its obligation for the current lease through 2027 – Contractor: Boulevard Holdings, LLC, Location: 600 N. Old Woodward, Suite 100, Birmingham, MI 48009 – Contract Amount: \$2,727,752.00

The Purchasing Division of the Finance Department recommends contracts as outlined above.

The approval of your Honorable Body and a Waiver of Reconsideration are requested.

Respectfully submitted,

  
Bqysie Jackson  
Chief Procurement Officer

BJ/zh  
cc: Aliyah Sabree  
Lena Willis

CONTRACT # CPO 289985Y  
SPO 2899857 ☐ Waiver  
CHANGE ORDER # «Amendment» Agenda Date \_\_\_\_\_  
DEPARTMENT Planning and Development Department CCR: \_\_\_\_\_

### CONTRACT SYNOPSIS

**CONTRACTOR**

NAME: Economic Development Corporation

ADDRESS: 500 Griswold, Detroit, Michigan 48226

NOF Public Service – Living Wage Ordinance Does Not Apply

WHAT FORM OF COMPETITION Request for Proposal (RFP) # \_\_\_\_\_  
DID THE DEPARTMENT ENGAGE Request for Quotes (RFQ) # \_\_\_\_\_  
IN TO OBTAIN THIS PROFESSIONAL Request for Qualifications (RFQQ) # \_\_\_\_\_  
SERVICE CONTRACT: If there was no competition obtained, explain why:  
*Grant funded – Not subject to competitive bidding.*

PROJECT: Economic Development Corporation  
Type of Funding and %: 100 % City of Detroit General Fund  
CONTRACT AMOUNT: \$255,000.00  
CONTRACT PERIOD: July 1, 2014 – June 30, 2015  
ADVANCE PAYMENT N/A  
BRIEF DESCRIPTION: Economic Development Services  
REASON FOR DELAY: N/A



Economic Development Corporation of the City of Detroit

TO: City of Detroit Clearance Divisions

FROM: Glen W. Long, Jr.

DATE: October 14, 2014

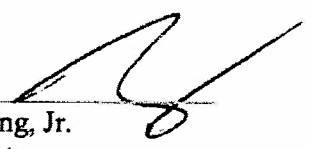
RE: Statement affirming that the EDC has no employees or owned autos

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The Economic Development Corporation of the City of Detroit (EDC) is a component unit of the City of Detroit, which contracts with the Detroit Economic Growth Corporation to provide staffing services, and employs no personnel. Since the EDC has no employees, the EDC has no need for Employer Liability, or Worker's Compensation Insurance Policies. Furthermore, the EDC would not have any issues with the Human Rights Department. The Detroit Economic Growth Corporation does carry such insurance policies and does receive Human Rights Department clearance since it does employ personnel.

As a component unit of the City, the EDC would not be subject to taxes and therefore would not be required to receive tax clearance. The DEGC is a non-profit organization, however it does collect and forward City Income tax from its employees. It receives clearance from the Income Tax Division. Its EIN is 38-2192028. The EDC's EIN is 27-2028946, though before it received its own EIN, it used to operate under the City's EIN of 38-6004606, and might still be reflected as such in your records. The EDC does not own any vehicles; therefore there is no need for an insurance policy covering owned autos, either.

We certify that the above is true, and is expected to remain so throughout the term of the relationship between the City of Detroit and the EDC.

  
Glen W. Long, Jr.  
Authorized Agent



Funds Available Inquiry (COD)

**Selection Criteria**

Budget
CODAMENDED

Period
JUN-15

Amount Type
Year To Date Extended

Encumbrance Type
ALL

Account Level
All

**Funds Available ( USD )**

Summary

Account	Budget	Encumbrance	Actual	Funds Available
<input type="checkbox"/> 1000-360134-000000-651200-0059	200,000.00	0.00	0.00	200,000.00
<input type="checkbox"/> 1000-360134-000284-651200-0059	0.00	0.00	0.00	0.00
<input type="checkbox"/> 1000-360134-000284-651200-0059	25,000.00	25,000.00	0.00	0.00
<input type="checkbox"/> 1000-360134-000284-651203-0059	0.00	0.00	0.00	0.00
<input type="checkbox"/> 1000-360134-000284-741500-0059	0.00	0.00	0.00	0.00
<input type="checkbox"/> 1000-360134-000284-741500-0059	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/> BUDC-360134-T-P06200-00595-T	225,000.00	25,000.00	0.00	200,000.00
<input type="checkbox"/>				

Encumbrance Amounts

Requisition	Purchase Order	Other
0.00	0.00	0.00

Account Description

General Fund-Economic Development-DUMMY PROJECT FOR GL-Economic Development-Economic Development

Funds Available Inquiry (COD)

**Selection Criteria**

Budget: **CODAMENDED** Amount Type: **Year To Date Extended**

Period: **JUN-15** Encumbrance Type: **ALL**

Account Level: **All**

**Funds Available (USD)**

Summary	Account	Budget	Encumbrance	Actual	Funds Available
<input type="checkbox"/>	1000-360135-000000-651200-0059	920,837.00	0.00	0.00	920,837.00
<input type="checkbox"/>	1000-360135-000284-651200-0059	0.00	0.00	0.00	0.00
<input type="checkbox"/>	1000-360135-000284-651200-0059	83,333.00	83,333.00	0.00	0.00
<input type="checkbox"/>	1000-360135-000284-651203-0059	0.00	0.00	0.00	0.00
<input type="checkbox"/>	1000-360135-000284-741500-0059	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	1000-360135-000284-741500-0059	0.00	0.00	0.00	0.00
<input checked="" type="checkbox"/>	BUDC-360135-T-P06200-00597-T-	1,004,170.00	83,333.00	0.00	920,837.00
<input type="checkbox"/>					

**Encumbrance Amounts**

Requisition: **0.00** Purchase Order: **0.00** Other: **0.00**

**Account Description**

General Fund-Economic Growth Corp-ECON DEV/GROWTH CORP-FICS Conversion-Economic Growth Corp-Undefin

\$ 920,837.00  
 - 55,000.00 ← DEEC CONTRACT  


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 \$ 865,837.00 ← REVERSE DEEC  
 CONTRACT TO THIS  
 AMOUNT

# NOTIFICATION OF CONTRACT AWARD

P & DD

CPO # \_\_\_\_\_ ORG # \_\_\_\_\_  
 ACT. PUR. NO: \_\_\_\_\_

OBJ. CODE/DETAIL: \_\_\_\_\_

N/A

Name of Program: **Economic Development Services**

Location: **City of Detroit**

Grant Number: \_\_\_\_\_

Sponsor: **City of Detroit**

% Minority Sponsorship: \_\_\_\_\_

100%

**PRIME or SOLE CONTRACTOR**  
**CONTRACTOR**

Business Name: \_\_\_\_\_

**ECONOMIC DEVELOPMENT CORP**

Principal Owner: \_\_\_\_\_

Address: \_\_\_\_\_

**500 GRISWOLD, SUITE 2200, Detroit, MI 48226**

Telephone: \_\_\_\_\_

**313.237.4621**

Internal Revenue Number (If Applicable): \_\_\_\_\_

**38-2192028**

Principal Ownership Over 50% (Check One on Each Line):

Black ☒ Hispanic ☐ Amer. Indian ☐ Asian ☐ White ☐

Sex: Male ☒

Female ☐

**SUB-CONTRACTOR**

Business Name: \_\_\_\_\_

Principal Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Internal Revenue Number (If Applicable): \_\_\_\_\_

Principal Ownership Over 50% (Check One on Each Line):

Black ☐ Hispanic ☐ Amer. Indian ☐ Asian ☐ White ☐

Sex: Male ☐ Female ☐

**CONTRACT AWARD**

**TYPE of CONTRACT:** Construction ☐

Service ☒

Supply ☐

Check Tier: Prime ☒

Sub ☐

Sub/Sub ☐

Total Dollar Value: \$255,000.00


Award Date: 09/1/2014

If Joint Venture,

Amount Minority: \$ \_\_\_\_\_

Amount Majority: \$ \_\_\_\_\_

This serves as such notification for the above contract.

  
 Preparer's Signature

Date

10/20/14